

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

JACK E. HAMILTON and
MONICA HAMILTON,

Plaintiffs,

vs.

AHMED AL GBURI,
BASHAR Z. SAEED,
ORD TRANS, INC.,
ORD TRANSPORTATION, INC., and
TEMPO CARRIER, INC.,

Defendants.

Civil No. 5:20-cv-5080

COMPLAINT

Plaintiffs, by and through their undersigned counsel, and for their complaint, state and allege as follows:

PARTIES

1. Plaintiffs Jack E. Hamilton and Monica Hamilton are husband and wife and residents of Fort Collins, Colorado.

2. Defendant Ahmed Al Gburi is a resident of 7221 Lamb Road, Apt. 1203, in San Antonio, Texas.

3. Defendant Bashar Z. Saeed is a resident of 6400 Wurzbach Road Apartment 5-504, San Antonio, Texas.

4. Defendant ORD Trans, Inc. is an Illinois corporation and is an active carrier and upon information and belief, is a trucking company operating under US DOT #2335231 and having its principal place of business at 2515 Pan Am Boulevard, Elk Grove Village, Illinois.

5. Defendant ORD Transportation, Inc., is an Illinois corporation and is an active carrier and upon information and belief, is a cargo and freight company operating under US DOT 2474459 and has its principal place of business at 3331 Emerson Street, Franklin Park, IL 60131.

6. Defendant Tempo Carrier, Inc. is an Illinois corporation and is an active carrier and upon information and belief, is in the business of hauling general freight operating under US DOT #02356913 and has its principal place of business at 830 East Higgins Road, Suite 111t, Schaumburg, Illinois.

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JURISDICTION

7. This Court has diversity jurisdiction pursuant to 28 U.S.C 1332 based upon the parties' citizenship and the fact that the amount in controversy exceeds \$75,000.

VENUE

8. Venue is properly laid within the District of South Dakota pursuant to 28 U.S.C 1391(b) because at all times material hereto the event causing Plaintiffs' injuries occurred within the District of South Dakota.

FACTS

9. On July 11, 2019, Plaintiff Jack E. Hamilton was driving a rented pickup in an easterly direction on U.S. Highway 18 in Fall River County, South Dakota, and was stopped in a construction zone at a stop sign held by a flagger.

10. Plaintiff Monica Hamilton was a passenger in the pickup.

11. Defendant Ahmed Al Gburi was driving a 2012 Volvo semi-truck with trailer in an easterly direction on U.S. Highway 18 in Fall River County, South Dakota.

12. Defendant Bashar Z. Saeed was the owner of the 2012 Volvo semi-truck, a commercial motor vehicle.

13. Upon information and belief, the semi-truck and trailer were being operated under agreements with Defendants Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc.

FIRST CAUSE OF ACTION-NEGLIGENCE

14. Despite the existence of multiple signs warning of a construction zone, the presence of a flagger displaying a stop sign, and traffic which had been stopped on Highway 18, Defendant Al Gburi negligently failed to stop the semi-truck he was operating causing a rear end collision with the pickup occupied by the plaintiffs.

15. As a consequence, Defendant Al Gburi was cited for Careless Driving pursuant to SDCL § 32-24-8.

16. Defendant Al Gburi pled guilty to the Careless Driving citation on August 12, 2019.

17. Defendant Al Gburi's negligence was a legal cause of bodily injury and damage to both Plaintiffs Jack E. Hamilton and Monica Hamilton.

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18. Plaintiff Monica Hamilton suffered bodily injuries and permanent harm and detriment, including, but not limited to:

- a. injuries to her left hip, back and neck;
- b. physical pain and discomfort, headaches, and mental anguish;
- c. lost income, disability and loss of earning capacity;
- d. loss of enjoyment of life;
- e. permanent physical impairment and disfigurement;
- f. medical expenses, both past and future including physical therapy, injections, chiropractic treatment, massage therapy, doctors, nurses, therapists, laboratory tests, medical equipment, and other similar expenses for examination, treatment, therapy and related prescriptions and modalities of care and support to include a future hip surgery; and,
- g. loss of consortium.

19. Plaintiff Jack E. Hamilton suffered bodily injuries, permanent harm and detriment, including, but not limited to:

- a. injuries to his left arm, left hip, back and neck;
- b. physical pain and discomfort and mental anguish;
- c. lost income, disability and loss of earning capacity;
- d. loss of enjoyment of life;
- e. permanent physical impairment and disfigurement;
- f. medical expenses, both past and future medical expenses for necessary medical treatment and care to include injections, physical therapy, chiropractic treatment, doctors, nurses, therapists, laboratory tests, medical equipment, and other similar expenses for examination, treatment, therapy and related prescriptions and modalities of care and support; and,
- g. loss of consortium.

SECOND CAUSE OF ACTION-NEGLIGENT ENTRUSTMENT

20. Plaintiffs restate the allegations set forth in paragraphs 1-19 above.

21. Defendants Bashar Z. Saeed, Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc. permitted Defendant Al Gburi, an inexperienced and incompetent truck driver, to operate the 2012 Volvo semi-truck and trailer on and before July 11, 2019.

22. Defendants Saeed, Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc. knew or should have known that Defendant Gburi was likely to operate the truck in a manner so as to create an unreasonable risk of harm to others.

23. Defendants Saeed, Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc. had the power to prohibit Gburi from driving the truck, but negligently entrusted the use of the

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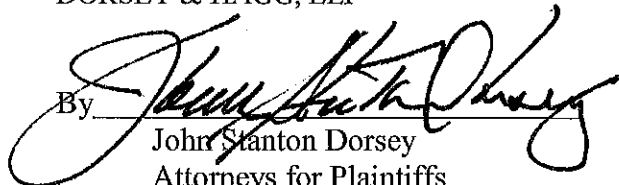
commercial vehicle to Gburi and said negligence was a legal cause of injuries and damages to the Plaintiffs above-described.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount to be determined by a duly empaneled jury which will fairly and reasonably compensate them for all losses and damages sustained by each of them, for their costs and further relief as deemed appropriate by the Court to include pre-judgment interest.

Dated this 28th day of December, 2020.

WHITING HAGG HAGG
DORSEY & HAGG, LLP

By



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DEMAND FOR TRIAL BY JURY

Plaintiffs respectfully request trial by jury on all issues so triable and demand same pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment to the Constitution.

Dated this 28th day of December, 2020.

WHITING HAGG HAGG
DORSEY & HAGG, LLP

By 

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JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jack E. Hamilton and Monica Hamilton

(b) County of Residence of First Listed Plaintiff Larimer, Colorado
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

John Stanton Dorsey, Whiting Hagg Hagg Dorsey & Hagg
LLP, P.O. Box 8008, Rapid City, SD 57709-8008,
605-348-1125

DEFENDANTS

Ahmed Al Gburi; Bashar Z. Saeed; ORD Trans, Inc.; ORD
Transportation, Inc.; and Tempo Carrier, Inc.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332

Brief description of cause:

Plaintiff resides in Colorado, two Defendants reside in Texas, Corporations are based in Illinois, action arose in South Dakota

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

12/28/2020

SIGNATURE OF ATTORNEY OF RECORD

John Stanton Dorsey

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE